Reserved Judgment

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Sales Tax Revision No. 106 of 2003
(Old No. 1365 / 1992)

M/s Shyam Sunder and Brothers
Village – Charwa
District Dehradun.
…..……. Applicant/Revisionist

Versus

The Commissioner of Sales Tax,
Uttar Pradesh, Lucknow
……. Opposite Party

Learned Standing Counsel for the applicant – revisionist.
Mr. S.K. Posti, learned counsel for the respondent.

Hon'ble Prafulla C. Pant, J.

Heard learned Standing Counsel appearing on behalf of the applicant-revisionist. No one turned up on behalf of the assessee, even after sufficient service.

2) This revision, preferred under Section 11 of the U.P. Sales Tax Act, 1948, was filed before the Allahabad High Court in the year 1992 from where it has been received by transfer under Section 35 of the U.P. Reorganization Act, 2000, for its disposal.

3) The question of laws involved in this revision are as under:

1. *"Whether, on the facts and in the circumstances of the case, the Sales Tax Tribunal as well as authorities below it were justified in law in rejecting the account books of the applicant?"*
2. *"Whether, on the facts and in the circumstances of the case, the Sales Tax Tribunal as well as the authorities below it were justified in drawing adverse inference on the basis of surveys conducted on various dates i.e. on 25.04.86, 25.05.86, 13.07.96, 07.12.86 & 20.03.87 in which no adverse material was allegedly found?"*

4) The assessee is a partnership concern, which deals in the business of manufacture and sale of bricks. The case pertains to the assessment year 1986-87. The assessee filed its return for the said assessment year showing its taxable turnover at Rs.4,84,890/- and has admitted tax liability to the tune of Rs. 42,670.32 at the rate of 8.8%, thereon. The assessing officer vide his order dated 27.03.1991, rejected the account books and also enhanced the tax liability of the assessee. Against which the assessee filed an appeal before the Assistant Commissioner (Judicial), Sales Tax, Dehradun, which was partly allowed by it on 31.10.1991. Being aggrieved, the assessee filed second appeal before the Sales Tax Tribunal. The learned Tribunal upheld the order of the Assistant Commissioner (Judicial) Sales Tax and dismissed the appeal of the assessee on 29.06.1992. Against the aforesaid order dated 29.06.1992 of the

Tribunal, the assessee has filed this revision before this Court.

5) I have gone through the entire record of the case. The learned Tribunal as well as the Assistant Commissioner (Judicial) Sales Tax have given concurrent findings of facts in their judgment. It appears that these are based on survey, conducted on business establishment of the assessee. As such, there is no error of law committed by the learned Tribunal in arriving at its findings. In the above facts and circumstances, this Court is not inclined to interfere in the findings given by the learned Tribunal.

5) In view of the above discussion, the question of law is answered accordingly, and, the revision is dismissed.

(Prafulla C. Pant, J.)

Dt.25.07.2005
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